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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BERRY & ASSOCIATES P.C. 9255 SUNSET BOULEVARD SUITE 810 LOS ANGELES, CA 90069				
			EXAMINER EWART, JAMES D	
			ART UNIT 2683	PAPER NUMBER

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/677,526

Applicant(s)

ROBERTSON ET AL.

Examiner

James D. Ewart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 05-06-2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-13,15-18 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-13,15-18 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Arguments

1. Applicant's arguments filed May 06, 2005 have been fully considered but are not convincing. Both the Applicant and Chmaytelli teach a combined PDA and wireless telephone that is handheld and is a mobile computer. Both the Applicant and Chmaytelli teach using a switch to manipulate the call based on whether a device is connected or disconnected to the PDA. However, instead of checking whether the speaker is connected to determine whether the cellular phone is off or on, the connection of the stylus is checked to determine whether the cellular phone is enabled or disabled see Column 1, Lines 44-46. Applicant's art is a slight modification in which the connection of the speaker/earplug/headset is checked to determine whether the cellular phone is enabled or disabled. Watanabe teaches using a switch to manipulate the call based on whether an earplug is connected or disconnected to the phone. Examiner has used the Watanabe et al reference to teach the limitation of checking the status of an earplug connection to a phone. Another thing that is different from the Applicant's invention and the Chmaytelli's invention is that Applicant teaches diverting the call to voicemail when the cellular phone is disabled. Diverting a call to voicemail is done in most households in the U.S. and the Examiner uses the Sumner reference to show this teaching.

Oath/Declaration

2. One of the inventors, Benoit Vialle, didn't provide a date with his signature.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 6, 7, 10, 13, 15 - 18, 20, 21, and 24 are rejected under 35 USC 103(a) as being unpatentable over Chmaytelli (U.S. Patent No. 6,233,464) in view of Watanabe et al (U.S. Patent No. 5,675,641) and further in view of Sumner (U.S. Patent No. 6,091,947).

Referring to claims 1, Chmaytelli teaches a method of managing phone calls on a computing device having a wireless hand held phone device, the method comprising: receiving an incoming call signal from a telephone network (Column 1, Lines 32-36); checking an attachment status of a stylus device to determine whether the cellular phone is enabled or disabled (Column 1, Lines 40-46); the attachment of the earplug device is an obvious modification to the attachment of the stylus device to enabling or disabling the phone because it's something the user would do prior using it. However, Chmaytelli doesn't explicitly teach checking an attachment status of a earplug device wherein the earplug device is configured to be connected to the wireless handheld phone device. Watanabe et al teaches checking an attachment status of an earplug device (Column 1, Lines 54-57) wherein the earplug device is configured to be connected to the wireless handheld phone device (Column 2, Lines 12-13). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli with the art of Watanabe et al of

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checking an attachment status of a earplug device wherein the earplug device is configured to be connected to the wireless handheld phone device to prevent undesired feedback of speaker output to the microphone unit (Column 1, Lines 59-60). The Chmaytelli and Watanabe et al combination teach the limitations of claims 1 and 2, but do not teach that if the phone is not enabled diverting the incoming call to a voicemail application. Sumner teaches diverting the incoming call to a voicemail application (Figure 5; 406, 407, 408). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli and Watanabe et al with the art of Sumner of diverting the incoming call to a voicemail application when the handset is not disposed to receive normal voice (Column 2, Lines 36-37).

Referring to claims 3, 4 and 13, Chmaytelli teaches a method of managing phone calls to a wireless handheld phone device of a computing device, wherein the phone call is transmitted from a device in a mobile phone network, the method comprising: determining a status of a radio switch of the personal digital assistant (Column 1, Lines 44-46) and managing a phone call to the phones device, wherein managing the phone call is based on the status of the radio switch (Column 1, Lines 32-48) and receiving the phone call only if the stylus is connected to the computing device (Column 1, Lines 44-46); but does not teach determining a status of a network coverage and managing a phone call based on the status of the network coverage. Sumner teaches determining a status of network coverage and managing a phone call based on the status of the network coverage (Figure 5; 406, 407, 408). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of

Chmaytelli with the art of Sumner of determining a status of a network coverage and managing a phone call based on the status of the network coverage to divert an incoming call to a voicemail application when the handset is not disposed to receive normal voice (Column 2, Lines 36-37). The Chmaytelli and Sumner combination teach the limitations of claims 3, 4 and 13, but do not teach receiving the phone call if a earplug device is plugged in, wherein the earplug device is configured to be electrically connected to the wireless phone device, wherein the earplug device is plugged in if the earplug device is electrically connected to the personal digital assistant and is configured to emit sound waves related to the received signals received from the personal digital assistant. Watanabe et al teaches receiving the phone call if a earplug device is plugged in (Column 1, Lines 52-62), wherein the earplug device is configured to be electrically connected to the wireless phone device (Column 2, Lines 12-13 and Column 3, Line 27), wherein the earplug device is plugged in if the earplug device is electrically connected to the computing device (Column 2, Lines 12-13 and Column 3, Line 27) and is configured to emit sound waves related to the received signals received from the personal digital assistant (Column 2, Lines 12-13 and Column 5, Lines 16-21). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli and Sumner with the art of Watanabe et al of receiving the phone call if a earplug device is plugged in, wherein the earplug device is configured to be electrically connected to the wireless phone device, wherein the earplug device is plugged in if the earplug device is electrically connected to the personal digital assistant and is configured to emit sound waves related to the received signals received from the personal digital assistant to to prevent undesired feedback of speaker output to the microphone unit (Column 1, Lines 59-60).

Referring to claims 17 and 18, Chmaytelli teaches a computer-readable medium carrying one or more sequences of one or more instructions for managing a phone call to a phone device of a computing device (Figure 4), the one or more sequences of one or more instructions including instructions which, when executed by one or more processors, cause the one or more processors to perform the steps of: determining a status of a radio switch of the personal digital assistant (Column 1, Lines 44-46) and receiving the phone call only if the stylus is connected to the computing device (Column 1, Lines 44-46); but does not teach determining a status of a network coverage of the phone device. Sumner teaches determining a status of network coverage of the phone device (Figure 5; 406, 407, 408). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli with the art of Sumner of a status of a network coverage of the phone device to divert an incoming call to a voicemail application when the handset is not disposed to receive normal voice (Column 2, Lines 36-37). The Chmaytelli and Sumner combination teach the limitations of claims 17 and 18, but do not teach determining a status of a earplug device, wherein the earplug device is configured to be electrically connected to the wireless phone device, wherein if the earplug device is plugged in, the earplug device is electrically connected to the personal digital assistant and is configured to emit sound waves related to the received signals received from the wireless handheld phone device of the personal digital assistant. Watanabe et al teaches determining a status of a earplug device (Column 1, Lines 52-62), wherein the earplug device is configured to be electrically connected to the wireless phone device (Column 2, Lines 12-13 and Column 3, Line 27), wherein if the earplug device is plugged in, the earplug device is electrically connected to the personal digital assistant (Column 2, Lines 12-13 and Column 3, Line 27) and is

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configured to emit sound waves related to the received signals received from the wireless handheld phone device of the personal digital assistant (Column 2, Lines 12-13 and Column 5, Lines 16-21). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli and Sumner with the art of Watanabe et al of determining a status of a earplug device, wherein the earplug device is configured to be electrically connected to the wireless phone device, wherein if the earplug device is plugged in, the earplug device is electrically connected to the personal digital assistant and is configured to emit sound waves related to the received signals received from the wireless handheld phone device of the personal digital assistant to to prevent undesired feedback of speaker output to the microphone unit (Column 1, Lines 59-60).

Referring to claims 6, 15 and 20, Sumner further teaches initiating a voicemail application (Figure 4; 406, 407, 408). Referring to claim 15, Sumner further teaches a display (Figure 6, Column 4, Line 1).

Referring to claims 7 and 21, Sumner further teaches receiving a voicemail notification from the mobile phone network; and displaying a voice mail notification message (Column 7, Lines 23-31).

Referring to claims 10 and 24, Sumner further teaches receiving a silence signal; and initiating a silence routine, wherein the silence routine is configured to send the phone call to a voicemail application (Figure 4; 406, 407, 408).

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4. Claims 8, 9, 22, and 23 are rejected under 35 USC 103(a) as being unpatentable over Chmaytelli, Sumner, and Watanabe et al and further in view of Rhodes (US Patent No. 6,343,120).

Referring to claims 8 and 22, Chmaytelli, Sumner, and Watanabe et al teach the limitations of claims 8 and 22, but do not teach receiving caller data of the phone call, wherein the caller data includes information on a phone number associated with the phone call, and information on a name associated with the phone number; and displaying an incoming message, wherein the incoming message includes information related to the caller data. Rhodes teaches receiving caller data of the phone call, wherein the caller data includes information on a phone number associated with the phone call, and information on a name associated with the phone number; and displaying an incoming message, wherein the incoming message includes information related to the caller data (Column 1, Lines 32 – 58). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli, Sumner, and Watanabe et al with the teaching of Rhodes of receiving caller data of the phone call, wherein the caller data includes information on a phone number associated with the phone call, and information on a name associated with the phone number; and displaying an incoming message, wherein the incoming message includes information related to the caller data to allow the subscriber to make a decision as to whether to answer the telephone call (Column 1, Lines 56-57).

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Referring to claims 9 and 23, Rhodes further teaches wherein the information on the phone number is identifiable or unidentifiable, and wherein the information on the name is identifiable or unidentifiable (Column 1 Line 59 to Column 2, Line 3).

5. Claims 10 and 24 are rejected under 35 USC 103(a) as being unpatentable over Chmaytelli, Sumner, and Watanabe et al and further in view of Link, II et al. (US Patent No. 6,334,054).

Referring to claims 10 and 24, Chmaytelli, Sumner, and Watanabe et al teach the limitations of claims 10 and 24, but do not teach receiving a silence signal; and initiating a silence routine, wherein the silence routine is configured to send the phone call to a voicemail application. Link, II et al. teaches a silence signal; and initiating a silence routine, wherein the silence routine is configured to send the phone call to a voicemail application (Column 2, Lines 17 – 24). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli, Sumner, and Watanabe et al with the art of Link, II et al of receiving a silence signal; and initiating a silence routine, wherein the silence routine is configured to send the phone call to a voicemail application to allow the user to screen calls (Column 2, Lines 38 – 39).

6. Claims 11 and 25 are rejected under 35 USC 103(a) as being unpatentable over Chmaytelli, Sumner, Watanabe et al and Rhodes in further view of Cannon et al. (US Patent No. 6,026,152) and further in view of Rhodes.

Referring to claims 11 and 25, Rhodes further teaches displaying the caller data. (Column 1, Lines 32 – 58). Chmaytelli, Sumner, Watanabe et al and Rhodes teach the limitations of claims 11 and 25, but do not teach initiating an answer routine, wherein the answer routine is configured to initiate: starting a timer configured to clock a period of time the phone call is being answered by the phone device of the computing device. Cannon et al. teaches initiating an answer routine, wherein the answer routine is configured to initiate: starting a timer configured to clock a period of time the phone call is being answered by the phone device of the computing device (Column 6, Lines 20 – 32). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli, Sumner, Watanabe et al and Rhodes with the art of Cannon et al of initiating an answer routine, wherein the answer routine is configured to initiate: starting a timer configured to clock a period of time the phone call is being answered by the phone device of the computing device to provide a pre-recorded message if the timer times out (Column 6, Lines 29-30).

7. Claims 12 and 26 are rejected under 35 USC 103(a) as being unpatentable over Chmaytelli, Sumner, and Watanabe et al and further in view of Wang et al. (US Patent No. 6,161,134).

Referring to claims 12 and 26, Chmaytelli, Sumner, and Watanabe et al teach the limitations of claims 12 and 26 including wherein the call device is configured to be active if the phone call is being answered, but do not teach suspending a current application other than a call device and initiating the call device. Wang et al teaches suspending a current application other than a call device and initiating the call device (Column 23, Lines 50-57). Therefore, at the time

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the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli, Sumner and Watanabe et al with the art of Wang et al of suspending a current application other than a call device and initiating the call device to allow the user to provide this feature as an operating parameter (column 23, Lines 50-51).

8. Claim 16 is rejected under 35 USC 103(a) as being unpatentable over Chmaytelli, Sumner, and Watanabe et al and further in view of Harrison (US Patent No. 6,240,302).

Referring to claim 16, Chmaytelli, Sumner, and Watanabe et al teach the limitations of claim 16 including answering a phone call and initiating a call application, but do not specifically teach a tap recognizer connected to the display device. Harrison teaches a tap recognizer connected to the display device (Figure 1). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Chmaytelli, Sumner, and Watanabe et al with the art of Harrison of providing a tap recognizer connected to the display device to easily make new appointments (Figure 1).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D. Ewart whose telephone number is (571) 272-7864. The examiner can normally be reached on M-F 7am - 4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on (571)272-7872. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.


Ewart July 22, 2005


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600